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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,493	02/15/2001	Ron Grosz	00216-544001/T-695	1706

26161 7590 09/10/2003

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

EXAMINER

LEE, EDMUND H

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 09/10/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/784,493

Applicant(s)

GROSZ ET AL.

Examiner

Geoffrey P. Shippides

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6-30-03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 and 30-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 8, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,120,948 (Shelton) in view of U.S. Patent No. 5,984,553 (Piscopo et al.).

With regard to claim 1, Shelton teaches a method for the manufacturing of an antiperspirant/deodorant product (title) within a container (Column 11, line 12), the method comprising delivering a first composition in fluid form to a mold container the mold container including a removable insert (Column 11, lines 16-19), allowing the first composition to at least partially solidify (Column 11, line 18), delivering a second composition in fluid form to the space that was occupied by the insert (Column 11, lines 19-20). It is obvious in the process of Shelton that the second delivered composition contacts the first composition after delivery. The first composition of Shelton includes a deodorant active ingredient (Column 7, line 22).

Shelton does not specifically teach that the mold container has an application end and an opposite end. Shelton also does not specifically teach that the product has an application surface adjacent the application end. Shelton also does not teach that the first composition is delivered through the opposite end of the container. Piscopo et

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al., however, teaches a dispenser-applicator (title) that is useful for deodorants and antiperspirants (Column 1, line 16), where the cosmetic material is molded in the product dispenser-applicator (Figure 3). The material for forming the deodorant/antiperspirant product is delivered through the end opposite to the application end of the dispenser-applicator (Figures). It would have been obvious to one having ordinary skill in the art at the time of invention to modify the process of Shelton to directly mold the antiperspirant/deodorant product in a deodorant/antiperspirant dispenser-applicator as taught by Piscopo et al. in order to form the antiperspirant/deodorant product in a ready to use state that would not require any further packaging steps before being sold to a consumer.

With regard to claim 2, it is intrinsic in the process of Shelton in view of Piscopo et al. that a portion of the mold cavity (the bottom part) defines an application surface of the product.

With regard to claim 3, Shelton does not specifically teach that the application surface is dome shaped, as Shelton does not go into any detail concerning the shape of antiperspirant product. Piscopo et al. does teach a dome shaped application surface. It would have been obvious to one having ordinary skill in the art at the time of invention to mold a product as taught by Shelton in the dispenser-applicator as taught by Piscopo et al. in order to provide a means to dispense the product and it would have been obvious to form an application surface with a domed shape as taught by Piscopo et al. in order to make a product that conforms to the shape of an arm pit (where deodorant/antiperspirant is usually applied).

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With regard to claim 4, it is intrinsic to the process of Shelton that the insert is inserted into the mold container prior to the step of delivering the first composition (Column 11, lines 15-20).

With regard to claim 5, Piscopo et al. teaches a first closure (ref. No. 28) which forms the application end of the mold (packaging) of Piscopo et al. (Figures 3 and 4). This first closure as taught by Piscopo et al. is disposable by the user of the dispenser-applicator (Column 2, line 56-57), and thus constitutes a factory seal portion of the container. It would have been obvious to one having ordinary skill in the art at the time of invention to use the dispenser-applicator as taught by Piscopo et al. in the production of the multi-phased product of Shelton in order to provide a means to dispense the product and it would have been obvious to use such a factory seal in order to reassure the consumer that the product is unused.

With regard to claim 8, Shelton does not specifically teach the application of a downward pressure to the insert during delivery of the first composition. It is, however, the examiner's position that gravity and air pressure would intrinsically provide a downward pressure on the insert.

With regard to claim 12, Shelton does not specifically teach that the second composition is allowed to solidify. It is, however, the examiner's position that it would have been obvious to allow the second composition to solidify in order to yield the finished product.

It would have been prima facie obvious at the time of invention to use the method of backfilling an antiperspirants/deodorant product the basic procedure as taught by

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Piscopo et al. for making a two material antiperspirants/deodorant product of Shelton in order to get the improved two material antiperspirants/deodorant product of Shelton into a disperser/applicator that would allow for efficient manufacturing of the product.

3. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,120,948 (Shelton) in view of U.S. Patent No. 5,984,553 (Piscopo et al.) as applied to claims 1-5, 8, 12 above, and further in view of U.S. Patent No. 4,366,038 (Kearney et al.).

With regard to claim 6, Shelton does not specifically teach the structure of the insert and so does not specifically teach that the insert has a flange that fits securely within the opposite end of the container. Kearney et al., however, teaches the use of an insert with a flange that fits securely in an end of a container in order to correctly place the insert (Figure 1). It would have been obvious to one having ordinary skill in the art at the time of invention to make the insert of Shelton to include a flange as taught by Kearney et al. that would fit securely within the open end of the container (package) in order to ensure the proper placement of the insert within the container.

With regard to claim 7, Shelton does not specifically teach the structure of the insert and so does not specifically teach that the insert has a taper to allow it to be easily removed. Kearney et al., however, does include a taper (Figure 1). It would have been obvious to one having ordinary skill in the art at the time of invention to make the insert of Shelton with the structure as taught by Kearney et al. including a taper in order to provide a means of properly placing the insert within the container mold.

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It would have been prima facie obvious at the time of invention to use the method of backfilling a antiperspirants/deodorant product the basic procedure as taught by Piscopo et al. for making a two material antiperspirants/deodorant product of Shelton in order to get the improved two material antiperspirants/deodorant product of Shelton into a disperser/applicator that would allow for efficient manufacturing of the product and to also use an insert with the structure of Kearney et al. in order to allow for a more reliable insert placement within the mold container.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,120,948 (Shelton) in view of U.S. Patent No. 5,984,553 (Piscopo et al.) as applied to claims 1-5, 8, 12 above, and further in view of U.S. Patent No. 5,643,467 (Romanco).

With regard to claim 9, Shelton does not specifically teach that the insert has a pressure ridge. Romanco, however, teaches the use of pressure ridges to prevent leaks (title). It would have been obvious to one having ordinary skill in the art at the time of invention to modify the insert of Shelton to include a pressure ridge along the sides of the insert so that material does not leak past the insert and cause defective top surface of the product.

It would have been prima facie obvious at the time of invention to use the method of backfilling a antiperspirants/deodorant product the basic procedure as taught by Piscopo et al. for making a two material antiperspirants/deodorant product of Shelton in order to get the improved two material antiperspirants/deodorant product of Shelton into a disperser/applicator that would allow for efficient manufacturing of the product and

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also to use an insert with the structure of Romanco in order to insure that the material does not leak to undesired areas of the mold container.

5. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,120,948 (Shelton) in view of U.S. Patent No. 5,984,553 (Piscopo et al.) as applied to claims 1-5, 8, 12 above, and further in view of U.S. Design Patent No. D454,664 S (Look).

With regard to claim 10, Shelton does not specifically teach that the different components are of different colors, but does teach the incorporation of possible dyes, and coloring agents into the different phases (Column 6, lines 16-17; Column 8, lines 46-47). Look, however, teaches a combined multi-composition stick product (such as deodorant) that has different areas of different color (figures). It would have been obvious to one having ordinary skill in the art at the time of invention to make the product of Shelton with the two phases of different color in order to create a decorative effect similar to that as taught by Look.

With regard to claim 11, Shelton does not teach that the second composition forms a stripe across the deodorant stick. Look, however, does teach for such a design (Figures). It would have been obvious to one having ordinary skill in the art at the time of invention to use the process of Shelton to create a number of decorative designs including those as taught by Look in order to increase the sales of the product.

It would have been prima facie obvious at the time of invention to use the method of backfilling a antiperspirants/deodorant product the basic procedure as taught by Piscopo et al. for making a two material antiperspirants/deodorant product of Shelton in

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order to get the improved two material antiperspirants/deodorant product of Shelton into a dispenser/applicator that would allow for efficient manufacturing of the product with the design of Look in order for an improved decorative appearance.

6. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,120,948 (Shelton) in view of U.S. Patent No. 5,984,553 (Piscopo et al.) as applied to claims 1-5, 8, 12 above, and further in view of U.S. Patent No. 5,947,621 (Szekely).

With regard to claim 13, Shelton does not specifically teach that a package base is applied to the package after or before the second material is at least partially solidified. Szekely, however, teaches the insertion of a base to a package before the material has solidified in order to complete the formation of the dispenser and to embed the product advancement device into the material (Figure 7). It would have been obvious to one having ordinary skill in the art at the time of invention to mold a product as taught by Shelton in the dispenser as taught by Szekely in order to provide a means to dispense the product and it would have been obvious to add the base prior to the solidification of the inner material in order to embed the product advancement device.

With regard to claim 14, Piscopo et al. also teaches an advancement device (Figure 1, ref. No. 27). It would have been obvious to one having ordinary skill in the art at the time of invention to use the dispenser-applicator as taught by Piscopo et al. in the production of the multi-phased product of Shelton in order to provide a means to dispense the product and it would have been obvious to a product advancement means as taught by Piscopo et al. in order to advance the product into position where the

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product can be used as the product is used up. It would have been further obvious to one having ordinary skill in the art at the time of invention to place the advancement device as taught by Piscopo et al. in the multi-phase product as taught by Shelton by the method as taught by Szekely in order to make sure that the advancement device is properly embedded in the product.

It would have been prima facie obvious at the time of invention to use the method of backfilling a antiperspirants/deodorant product the basic procedure as taught by Piscopo et al. for making a two material antiperspirants/deodorant product of Shelton in order to get the improved two material antiperspirants/deodorant product of Shelton into a disperser/applicator that would allow for efficient manufacturing of the product with the product advancement placement technique of Szekely in order to properly place the product advancement means as taught by both Szekely and Piscopo et al.

7. Claims 20, 21, and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,120,948 (Shelton) in view of U.S. Patent No. 5,984,553 (Piscopo et al.) as applied to claims 1-5, 8, 12 above, and further in view of U.S. Patent No. 4,518,553 (Yarossi et al.).

With regard to claims 20 and 21, Shelton does not specifically teach that the first portion (the portion of mold that defines the application surface) is defined by a mold member constructed to receive the container in sealing engagement. Yarossi et al. teaches a mold body (ref. No. 54) to which the top end of the container (ref. No. 50) is affixed (Figure 1), prior to the molding of the material into the container. This is intrinsically in a sealed arrangement so that the material does not leak. It would have

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been obvious to one having ordinary skill in the art at the time of invention to use the mold part as taught by Yarossi et al. in the process of making the product as taught by Shelton in order to provide a dispenser for the product and in order to ensure that the material for the product does not leak out of the container during the molding of the product within the container. It would have further been obvious to one having ordinary skill in the art at the time of invention to mount the mold member to the application end prior to the molding of any material in order to make sure that material remains in the mold container during the molding operation.

With regard to claim 24, Yarossi et al. teaches the removal of the mold part after the product the complete solidification of the material within the package. It would have been obvious to one having ordinary skill in the art at the time of invention to allow for the product to completely solidify (all materials) when making the product of Shelton in the dispenser of Yarossi et al. prior to removing the container from the mold in order to ensure that the material retains its shape.

With regard to claim 25, it is well known to provide consumer packages with factory seals in order to reassure the consumer that the product has not been tampered with after leaving the factory. Although neither Shelton nor Yarossi et al. specifically teach the use of such a factory seal, it would have been obvious to one having ordinary skill in the art at the time of invention apply a factory seal as is well known in the art after the product is complete so that the consumer will know that the product has not been tampered with after leaving the factory.

With regard to claims 26 and 27, it is well known in the art of molding to have integral mold parts (mold parts with attached projections). It would have been obvious to connect the insert part to the bottom part of the mold in order to create an automatic correct placement of the insert in the mold container without the possibility of leaks of material into unwanted areas in the process of Shelton in view of Yarossi et al. In such a case it would have been further obvious to one having ordinary skill in the art at the time of invention to remove the mold part after the solidification of the first composition and to place the factory seal of Piscopo et al. for the molding of the second composition in order to ensure the second composition stays in the container.

It would have been prima facie obvious at the time of invention to use the method of backfilling an antiperspirants/deodorant product the basic procedure as taught by Piscopo et al. for making a two material antiperspirants/deodorant product of Shelton in order to get the improved two material antiperspirants/deodorant product of Shelton into a dispenser/applicator that would allow for efficient manufacturing of the product and to also use the improved application surface shaping technique of Yarossi et al. in order to produce an improved application surface.

8. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,120,948 (Shelton) in view of U.S. Patent No. 5,984,553 (Piscopo et al.) and in view of U.S. Patent No. 4,518,553 (Yarossi et al.) as applied to claims 20, 21 and 24-27 above, and further in view of U.S. Patent No. 3,972,974 (Pico).

With regard to claims 22 and 23, Shelton does not specifically teach how the insert is placed into the mold container. Pico, however, teaches a way to insert an

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insert into a mold body in order to leave a passage through the molded body by having an insert that goes through and seals a hole in the bottom of a mold part (Figures 6 and 7). It would have been obvious to one having ordinary skill in the art at the time of invention to modify the process of Shelton to include the use of an insert that is inserted through the bottom of the mold part in order to ensure that none of the first formed material leaks into the area for the second material causing an inferior product.

It would have been prima facie obvious at the time of invention to use the method of backfilling a antiperspirants/deodorant product the basic procedure as taught by Piscopo et al. for making a two material antiperspirants/deodorant product of Shelton in order to get the improved two material antiperspirants/deodorant product of Shelton into a disperser/applicator that would allow for efficient manufacturing of the product and to also use the improved insert placement technique of Pico in order to prevent the leakage of material to unwanted areas of the mold container.

9. Claims 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,120,948 (Shelton) in view of U.S. Patent No. 5,984,553 (Piscopo et al.).

With regard to claim 15, Shelton teaches a method for the manufacturing of an antiperspirant/deodorant product (title) within a container (Column 11, line 12), the method comprising delivering a first composition in fluid form to a mold container the mold container including a removable insert (Column 11, lines 16-19), allowing the first composition to at least partially solidify (Column 11, line 18), delivering a second composition in fluid form to the space that was occupied by the insert (Column 11, lines

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19-20). It is obvious in the process of Shelton that the second delivered composition contacts the first composition after delivery. The first composition of Shelton includes a deodorant active ingredient (Column 7, line 22).

Shelton does not specifically teach that the mold container has an application end and an opposite end. Shelton also does not specifically teach that the product has an application surface adjacent the application end. Shelton also does not teach that the first composition is delivered through the opposite end of the container. Piscopo et al., however, teaches a dispenser-applicator (title) that is useful for deodorants and antiperspirants (Column 1, line 16), where the cosmetic material is molded in the product dispenser-applicator (Figure 3). The material for forming the deodorant/antiperspirant product is delivered through the end opposite to the application end of the dispenser-applicator (Figures). It would have been obvious to one having ordinary skill in the art at the time of invention to modify the process of Shelton to directly mold the antiperspirant/deodorant product in a deodorant/antiperspirant dispenser-applicator as taught by Piscopo et al. in order to form the antiperspirant/deodorant product in a ready to use state that would not require any further packaging steps before being sold to a consumer.

Shelton does not specifically teach that the application surface is dome shaped, as Shelton does not go into any detail concerning the shape of antiperspirant product. Piscopo et al. does teach a dome shaped application surface. It would have been obvious to one having ordinary skill in the art at the time of invention to mold a product as taught by Shelton in the dispenser-applicator as taught by Piscopo et al. in order to

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provide a means to dispense the product and it would have been obvious to form an application surface with a domed shape as taught by Piscopo et al. in order to make a product that conforms to the shape of an arm pit (where deodorant/antiperspirant is usually applied).

With regard to claim 16, Shelton does not specifically teach a curved shaped insert, but it is obvious from the disclosure of Shelton that the insert is intended to leave a gap in the molded material so that both phases are present throughout the use of the product (Column 10, line 65 - Column 11, line 4). It would have been obvious to one having ordinary skill in the art at the time of invention to modify the shape of the insert of Shelton to conform the shape of the package mold as taught by Piscopo et al. when molding such a product as taught by Shelton within the dispenser-applicator as taught by Piscopo et al. in order to ensure that both phases are present throughout the use of the product.

It would have been prima facie obvious at the time of invention to use the method of backfilling a antiperspirants/deodorant product the basic procedure as taught by Piscopo et al. for making a two material antiperspirants/deodorant product of Shelton in order to get the improved two material antiperspirants/deodorant product of Shelton into a dispenser/applicator that would allow for efficient manufacturing of the product.

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,120,948 (Shelton) in view of U.S. Patent No. 5,984,553 (Piscopo et al.) as applied to claims 15 and 16 above, and further in view of U.S. Patent No. 5,643,467 (Romanco).

With regard to claim 17, Shelton does not specifically teach that the insert has a pressure ridge. Romanco, however, teaches the use of pressure ridges to prevent leaks (title). It would have been obvious to one having ordinary skill in the art at the time of invention to modify the insert of Shelton to include a pressure ridge along the sides of the insert so that material does not leak past the insert and cause defective top surface of the product.

It would have been prima facie obvious at the time of invention to use the method of backfilling a antiperspirants/deodorant product the basic procedure as taught by Piscopo et al. for making a two material antiperspirants/deodorant product of Shelton in order to get the improved two material antiperspirants/deodorant product of Shelton into a dispenser/applicator that would allow for efficient manufacturing of the product and also to use an insert with the structure of Romanco in order to insure that the material does not leak to undesired areas of the mold container.

11. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,120,948 (Shelton) in view of U.S. Patent No. 5,984,553 (Piscopo et al.) as applied to claims 15 and 16 above, and further in view of U.S. Design Patent No. D454,664 S (Look).

With regard to claim 18, Shelton does not specifically teach that the different components are of different colors, but does teach the incorporation of possible dyes, and coloring agents into the different phases (Column 6, lines 16-17; Column 8, lines 46-47). Look, however, teaches a combined multi-composition stick product (such as deodorant) that has different areas of different color (figures). It would have been

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obvious to one having ordinary skill in the art at the time of invention to make the product of Shelton with the two phases of different color in order to create a decorative effect similar to that as taught by Look.

With regard to claim 19, Shelton does not teach that the second composition forms a stripe across the deodorant stick. Look, however, does teach for such a design (Figures). It would have been obvious to one having ordinary skill in the art at the time of invention to use the process of Shelton to create a number of decorative designs including those as taught by Look in order to increase the sales of the product.

It would have been prima facie obvious at the time of invention to use the method of backfilling a antiperspirants/deodorant product the basic procedure as taught by Piscopo et al. for making a two material antiperspirants/deodorant product of Shelton in order to get the improved two material antiperspirants/deodorant product of Shelton into a disperser/applicator that would allow for efficient manufacturing of the product with the design of Look in order for an improved decorative appearance.

12. Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,120,948 (Shelton) in view of U.S. Patent No. 5,984,553 (Piscopo et al.) and U.S. Design Patent No. D454,664 S (Look).

With regard to claim 30, Shelton teaches a method for the manufacturing of an antiperspirant/deodorant product (title) within a container (Column 11, line 12), the method comprising delivering a first composition in fluid form to a mold container the mold container including a removable insert (Column 11, lines 16-19), allowing the first composition to at least partially solidify (Column 11, line 18), delivering a second

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composition in fluid form to the space that was occupied by the insert (Column 11, lines 19-20). It is obvious in the process of Shelton that the second delivered composition contacts the first composition after delivery. The first composition of Shelton includes a deodorant active ingredient (Column 7, line 22).

Shelton does not specifically teach that the mold container has an application end and an opposite end. Shelton also does not specifically teach that the product has an application surface adjacent the application end. Shelton also does not teach that the first composition is delivered through the opposite end of the container. Piscopo et al., however, teaches a dispenser-applicator (title) that is useful for deodorants and antiperspirants (Column 1, line 16), where the cosmetic material is molded in the product dispenser-applicator (Figure 3). The material for forming the deodorant/antiperspirant product is delivered through the end opposite to the application end of the dispenser-applicator (Figures). It would have been obvious to one having ordinary skill in the art at the time of invention to modify the process of Shelton to directly mold the antiperspirant/deodorant product in a deodorant/antiperspirant dispenser-applicator as taught by Piscopo et al. in order form the antiperspirant/deodorant product in a ready to use state that would not require any further packaging steps before being sold to a consumer.

Shelton does not specifically teach that the different components are of different colors, but does teach the incorporation of possible dyes, and coloring agents into the different phases (Column 6, lines 16-17; Column 8, lines 46-47). Look, however, teaches a combined multi-composition stick product (such as deodorant) that has

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different areas of different color (figures). It would have been obvious to one having ordinary skill in the art at the time of invention to make the product of Shelton with the two phases of different color in order to create a decorative effect similar to that as taught by Look.

Shelton does not teach that the second composition forms a stripe across the deodorant stick. Look, however, does teach for such a design (Figures). It would have been obvious to one having ordinary skill in the art at the time of invention to use the process of Shelton to create a number of decorative designs including those as taught by Look in order to increase the sales of the product.

With regard to claims 31 and 32, although Shelton does not specifically teach the material of the insert, it is well known in the art of molding to product mold inserts (like other mold parts) out of metal. It would have been obvious to one having ordinary skill in the art at the time of invention to use a metal insert as the insert of Shelton in order to allow for the insert to easily withstand the molding temperature and to also easily conduct heat in order to allow for efficient cooling of the molding material. It is further noted that claim 32 only further limits the group of coated metals and so is also met by the use of a metal insert.

It would have been prima facie obvious at the time of invention to use the method of backfilling a antiperspirants/deodorant product the basic procedure as taught by Piscopo et al. for making a two material antiperspirants/deodorant product of Shelton in order to get the improved two material antiperspirants/deodorant product of Shelton into

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a disperser/applicator that would allow for efficient manufacturing of the product with the design of Look in order for an improved decorative appearance.

Response to Arguments

13. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey P. Shipsides whose telephone number is 703-306-0311. The examiner can normally be reached on Monday - Friday 9 AM till 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 703-305-5493. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to read "Michael Colaianni". The signature is fluid and cursive, with a long horizontal stroke at the end.

Geoffrey P. Shipsides/gps

**MICHAEL COLAIANNI
PRIMARY EXAMINER**